



## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of: ZAGURY et al.

Art Unit: 1648

Application No.: 09/763,369

Conf. No. 9905

Examiner: J. S. Parkin

Filed: May 22, 2001

Washington, D.C.

For: METHOD FOR DETERMINING PROGNOSIS OF HIV...

Atty.'s Docket: ZAGURY3A

Date: October 6, 2005

Honorable Commissioner for Patents  
U.S. Patent and Trademark Office  
Customer Service Window  
Randolph Building, Mail Stop Amendment  
401 Dulany Street  
Alexandria, VA 22314

Sir:

Transmitted herewith is a [XX] Response [XX] Declaration under 37 CFR §1.132  
in the above-identified application.

[XX] Small Entity Status: Applicant(s) claim small entity status. See 37 C.F.R. §1.27.

[XX] No additional fee is required.

[ ] The fee has been calculated as shown below:

(Col. 1)		(Col. 2)		(Col. 3)	SMALL ENTITY		OR	OTHER THAN SMALL ENTITY	
	CLAIMS REMAINING AFTER AMENDMENT		HIGHEST NO. PREVIOUSLY PAID FOR	PRESENT EXTRA EQUALS	RATE	ADDITIONAL FEE		RATE	ADDITIONAL FEE
TOTAL	* 2	MINUS	** 20	0	x 25	\$		x 50	\$
INDEP.	* 1	MINUS	*** 3	0	x 100	\$		x 200	\$
FIRST PRESENTATION OF MULTIPLE DEP. CLAIM					+ 180	\$		+ 360	\$
					ADDITIONAL FEE TOTAL	\$	OR	TOTAL	\$

\* If the entry in Col. 1 is less than the entry in Col. 2, write "0" in Col. 3.

\*\* If the "Highest Number Previously Paid for" IN THIS SPACE is less than 20, write "20" in this space.

\*\*\* If the "Highest Number Previously Paid for" IN THIS SPACE is less than 3, write "3" in this space.

The "Highest Number Previously Paid For" (total or independent) is the highest number found from the equivalent box in Col. 1 of a prior amendment of the number of claims originally filed.

[XX] Conditional Petition for Extension of Time

If any extension of time for a response is required, applicant requests that this be considered a petition therefor.

[ ] It is hereby petitioned for an extension of time in accordance with 37 CFR 1.136(a). The appropriate fee required by 37 CFR 1.17 is calculated as shown below:

## Small Entity

## Response Filed Within

[ ] First - \$ 60.00

[ ] Second - \$ 225.00

[ ] Third - \$ 510.00

[ ] Fourth - \$ 795.00

Month After Time Period Set

## Other Than Small Entity

## Response Filed Within

[ ] First - \$ 120.00

[ ] Second - \$ 450.00

[ ] Third - \$ 1020.00

[ ] Fourth - \$ 1590.00

Month After Time Period Set

[ ] Less fees (\$ ) already paid for month(s) extension of time on .

[ ] Please charge my Deposit Account No. 02-4035 in the amount of \$ .

[ ] Credit Card Payment Form, PTO-2038, is attached, authorizing payment in the amount of \$ .

[ ] A check in the amount of \$ is attached (check no. ).

[XX] The Commissioner is hereby authorized and requested to charge any additional fees which may be required in connection with this application or credit any overpayment to Deposit Account No. 02-4035. This authorization and request is not limited to payment of all fees associated with this communication, including any Extension of Time fee, not covered by check or specific authorization, but is also intended to include all fees for the presentation of extra claims under 37 CFR §1.16 and all patent processing fees under 37 CFR §1.17 throughout the prosecution of the case. This blanket authorization does not include patent issue fees under 37 CFR §1.18.

BROWDY AND NEIMARK, P.L.L.C.

Attorneys for Applicant(s)

Facsimile: (202) 737-3528  
Telephone: (202) 628-5197

By: Allen C. Yun  
Allen C. Yun  
Registration No. 37,871

A. Neimark  
20520



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

ATTY.'S DOCKET: ZAGURY3A

In re Application of:	)	Art Unit: 1648
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ZAGURY et al.	)	Examiner: J. S. Parkin
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Appln. No.: 09/763,369	)	Washington, D.C.
	)	
Date Filed: May 22, 2001	)	Confirmation No. 9905
	)	
For: METHOD FOR DETERMINING	)	October 6, 2005
PROGNOSIS OF HIV...	)	

RESPONSE

Honorable Commissioner for Patents  
U.S. Patent and Trademark Office  
Customer Service Window  
Randolph Building, Mail Stop **Amendment**  
401 Dulany Street  
Alexandria, VA 22314

Sir:

This communication, along with the executed Dr. Jean-François ZAGURY declaration attached hereto, supplements the amendment filed June 15, 2005. As this response is filed within the three month period for suspension of action granted on petition July 14, 2004, entry and consideration with the amendment of June 15, 2005, are respectfully requested.

The attached 1.132 declaration executed by Dr. Jean-François ZAGURY presents the raw data used to generate Tables 2 and 3 of Example 1 on pages 13 and 15 of the present specification, which clearly confirm the high correlation between the anti-tat antibody and p24 antigen markers and progression or non-

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Amd. dated October 6, 2005

progression towards AIDS. Accordingly, the outstanding rejection under 35 U.S.C. §112, first paragraph, for lack of enablement is overcome. Reconsideration and withdrawal of the rejection are therefore respectfully requested.

In view of the above, the claims define patentable subject matter warranting their allowance. Favorable consideration and early allowance are earnestly urged.

Respectfully submitted,

BROWDY AND NEIMARK, P.L.L.C.  
Attorneys for Applicant(s)

By Allen C. Yun  
Allen C. Yun  
Registration No. 37,971

ACY:pp  
Telephone No.: (202) 628-5197  
Facsimile No.: (202) 737-3528  
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ly.  
J. V. Neimark  
Reg. 20520